

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

NANCY KEY,

Civil Action No.: 17-CV-04779-JNE-FLN

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Nancy Key in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1387] filed on August 2, 2018.
3. Mrs. Key contacted Kennedy Hodges, LLP in April of 2017 regarding injuries which were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mrs. Key's treatment were obtained by Kennedy Hodges through its third-party medical records retrieval company. Those records indicate that a Bair Hugger device was used during her initial orthopedic surgery.

5. This case was filed on October 23, 2017 to comply with a possible statute of limitations deadline identified by counsel.
6. Phone calls were placed and letters were sent to Mrs. Key by staff at Kennedy Hodges in an attempt to reach her and obtain information to complete the Plaintiff Fact Sheet. Attempts were also made to reach her husband, James Key. These communication attempts were made between December 2017 and July 2018, prior to and continuing after the original deadline for submission of the Plaintiff Fact Sheet.
7. To date, Kennedy Hodges has not received a response to these communication attempts and therefore has been unable to obtain the information necessary to complete the Plaintiff Fact Sheet.
8. In the course of investigating Mrs. Key's whereabouts, an obituary was located which seems to correspond to Mrs. Key. However, to date counsel has been unable to confirm with next of kin that this obituary pertains to Mrs. Key.
9. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet, we have thus far been unable to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet which has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

August 9, 2018

/s/Donald C. Green II
Donald C. Green II